

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 01-1901

GEORGE DUKE LODEN, BROKER

RESPONDENT

AGREED ORDER

This cause came before the Mississippi Real Estate Commission (sometimes hereinafter "Commission") pursuant to authority of Miss. Code Ann. §73-35-1, et seq. on a formal complaint brought against Respondent George Duke Loden, Broker. Prior to a hearing before the Commission, it was announced that an agreement was reached as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the Respondent, George Duke Loden, Broker. This agreement is in lieu of further disciplinary proceedings on this Complaint. By entering into this Agreed Order, Respondent George Duke Loden waives his right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues this, its Findings of Fact, Conclusions, and Disciplinary Order as follows:

I.

Respondent George Duke Loden, sometimes hereinafter called "Respondent Loden" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 2637 Woodglen Dr., Belden, MS 38826. Respondent Loden is the holder of a real estate broker's license issued by the Commission pursuant to Miss. Code Ann. §73-35-1, et seq., as amended and, as such, he is subject to all provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under Miss. law.

II.

This case began over the Commission's receipt of a written notice of change of business address from Respondent Loden. Preliminary investigation revealed that Respondent Loden was operating a real estate company under a company name not licensed by the Commission and, further, that advertising under an unlicensed company name has also occurred. Thereafter, the Commission opened its full investigation of the matter.

III.

Investigation showed that Respondent Loden had a company license issued by the Commission to "Century Construction and Real Estate, Inc." in 2001. Respondent Loden has represented and displayed, through advertising, the firm name of Century Commercial Real Estate Services including showing same on different documents. This entity was never licensed as a company with the Commission. Records show that the Respondent's real estate activities have only recently become licensed under the entity name that Respondent Loden has been using for years.

IV.

The above and foregoing described acts and omissions of the Respondent constitutes violations of the Mississippi Real Estate Brokers License Act of 1954, as amended, §73-35-1, et seq., Miss. Code Ann., and the Rules and Regulations of the Commission, and, more specifically, M.C.A. §73-35-6, §73-35-21(1)(a), (c), (d) and (n), and Commission Rules 1.1 F., 3.3 and 4.2 G(5) which provide, in relevant parts:

§73-35-6 Licenses for business entities; A corporation, partnership, company or association shall be granted a license when individual broker's licenses have been issued to every member, owner, partner or officer of such partnership, company, association or corporation who actively participates in its brokerage business and when any required fee is paid.

§73-35-21(1)(A) Making any substantial misrepresentation in connection with a real estate transaction;

§73-35-21(1)(C) Pursuing a continued and flagrant course of misrepresentation..... through agents or salespersons or any medium of advertising or otherwise;

§73-35-21(1)(D) any misleading or untruthful advertising;

§73-35-21(1)(N) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates incompetency... or improper dealing...

Rule 1.1 Applying for a License

F. If a corporation has been chartered by the state of Mississippi, the license will be issued in the corporate name except that no license will be issued for a corporation, company, or trade name where there exists in that county or trade area a real estate broker or real estate agency having a substantially similar name.

Rule 3.3 Advertising

A. "Advertising" means the use of any oral, written, visual, printed or electronically generated advertisement by a real estate licensee or other person on behalf of a real estate licensee.

"Advertisement" means any oral, written, visual, printed or electronic media advertisement and encompasses any correspondence, mailing, newsletter, brochure, business card, for sale or for lease signage or sign rider, promotional items, automobile signage, telephone directory listing, radio and television broadcasts, telephone solicitation and electronic media to include e-mails, text messaging, public blogs, social media-networking websites, and/or internet displays.

B. A broker shall advertise in the name in which the license is issued. A broker may use a descriptive term after the broker's name to indicate the occupation in which engaged, for example, "realty", "real estate" or "property management". If advertising in any other form, a partnership, trade name, association, company or corporation license must be obtained prior to advertising in that manner.

All advertising must be under the direct supervision and in the name of the Principal Broker or in the name of the real estate Brokerage Firm and must prominently display the name of the Principal Broker or the name of the Brokerage Firm in such a manner that it is conspicuous, discernible and easily identifiable by a member of the public.

Principal Brokers are required to verify and determine that their name or the name of the Brokerage Firm is prominently displayed on all advertising and that the name of any real estate licensee or any approved real estate Team or Group is situated near the name of the Brokerage Firm. The Broker or the Brokerage Firm must be identified by using the same size or larger print as that of a Licensee or a Team in all advertising. All advertising must include the telephone number of the Principal Broker or the Brokerage Firm.

Rule 4.2 (G) (5) Reasonable skill, care and diligence - the agent must perform all duties with the care and diligence which may be reasonably expected of someone undertaking such duties.

DISCIPLINARY ORDER

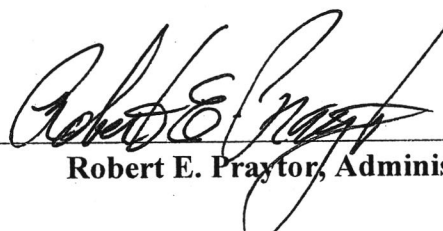
THEREFORE, by agreement, understanding and consent, the Commission **ORDERS** discipline as follows:

As to George Duke Loden, Broker, the Commission orders that his license incur a one (1) month suspension period, held in abeyance, and be immediately followed by five (5) months of probation; contingent upon both his future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon him completing eight (8) hours of Mandatory

Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during the month of September 2019. Said education is to be completed in a classroom environment, rather than through on-line education. Further, these classes will be courses approved by this Commission, be in addition to any regular hours of continuing education that may be required of him for license renewal and will not be the same classes from the same provider as those used by this Respondent in her last renewal period. Evidence of completion of these classes is to be provided to this Commission. Respondent Loden's five (5) month license probation period will start October 01, 2019.

So Ordered this the 10th day of SEPTEMBER, 2019.

MISSISSIPPI REAL ESTATE COMMISSION

By:  DATE: 09/10/19
Robert E. Praytor, Administrator

Agreed:  DATE: 8-23-19
George Duke Loden, Broker

